

5 Phil. 658

[G.R. No. 2409. February 27, 1906]

IN RE FELIPE G. CALDERON.

D E C I S I O N

JOHNSON, J.:

On the 29th of December, 1904, the Hon. John C. Sweeney, judge of the Court of First Instance of the city of Manila, for certain alleged professional misconduct on the part of the said Felipe G. Calderon, made the following order:

“It is therefore ordered by the court that Señor Felipe Calderon be, and he hereby is, suspended from the practice of law in the Philippine Islands.

“It is further ordered that this record be transmitted to the Supreme Court of the Philippine Islands for consideration.”

This order was based upon the authority given the judges of the Courts of First Instance under sections 21 and 22 of the Code of Procedure in Civil Actions. The record, including all the proceedings in said cause, was received by the clerk of the Supreme Court on the 20th of January, 1905. The existence of this record in this court was reported by the clerk to the court on the 28th of January, 1905; whereupon the court made the following order:

“Pase dicho expediente al Fiscal General de las Islas Filipinas para los efectos que'en derecho procedan.”

In accordance with said order the said record was transmitted to the Attorney-General. On the 3d day of November, 1905, the Solicitor-General filed his brief. On the 21st of November, 1905, Mr. Calderon presented his brief in his own defense. Mr. Calderon

complains that he has not been given an opportunity to be heard in this court upon the charges preferred against him, neither has he had an opportunity to present witnesses for the purpose of showing that said charges are false. He alleges that he was willing and ready to produce witnesses for the purpose of showing that said allegations were false. He claims that he has been deprived of the rights accorded to him under section 25 of the Code of Procedure in Civil Actions.

Said section 25 provides that—

“No lawyer shall be removed from the roll or be suspended from the performance of his profession’ until he has had full opportunity to answer the charges against him, and to produce witnesses in his own behalf and to be heard by himself and counsel, if he so desires, upon reasonable notice. But if upon reasonable notice the accused fails to appear and answer the accusation, the court may proceed to determine the matter *ex parte*.”

The privileges accorded to the defendant by virtue of this section have not been extended to him. When this court transferred the record to the Attorney-General it was understood and intended that the proceedings heretofore followed in the cases of *In re* Robert S. McDougall^[1] (Case No. 1167) and *In re* Terrell^[2] (Case No. 1203) should be followed. The practice in these two cases was in accordance with the provisions of the said Code of Procedure.

Inasmuch, as the defendant has not been given an opportunity to exercise the rights accorded to him by said section 25, all proceedings which have heretofore been taken in this court in said cause are hereby suspended, and it is hereby ordered that if none of the parties present an application for the taking of testimony in this case within a period of ten days from the date on which they receive notice of this resolution, the cause will be disposed of in this court upon the record of proceedings had in the Court of First Instance of the city of Manila. If the said application be presented within the period fixed, by any of the parties, the court will appoint a commission for the purpose of taking testimony in said cause. It is further ordered that a copy of this resolution be served upon the Attorney-General as well as upon Felipe Calderon. So ordered.

Torres, Mapa, Carson, and Willard, JJ., concur.

^[1] 3 Phil. Rep., 70.

^[2] 2 Phil. Rep., 266.

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